

**SENATE BILL No. 61**

By Committee on Judiciary

1-22

SB61-Balloon-Proponents

Prepared By: Jason Thompson,  
Office of Revisor of Statutes  
January 31, 2013

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to human trafficking; human trafficking advisory board; establishing  
3 the human trafficking victim assistance fund; creating the crime of  
4 commercial sexual exploitation of a child; relating to selling sexual  
5 relations, promoting sexual relations, buying sexual relations; children  
6 in need of care; staff secure facilities; amending K.S.A. 22-2530 and  
7 K.S.A. 2012 Supp. 12-4106, 12-4120, 12-4516, 21-5301, 21-5302, 21-  
8 5303, 21-5401, 21-5502, 21-6419, 21-6420, 21-6421, 21-6614, 21-  
9 6626, 21-6627, 21-6806, 21-6815, 22-2515, 22-3601, 22-3717, 22-  
10 3901, 22-4902, 22-4906, 38-2202, 38-2231, 38-2232, 38-2242, 38-  
11 2243, 38-2255, 38-2312, 38-2361, 41-311, 41-2601, 60-4104 and 68-  
12 2255 and repealing the existing sections.

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. The attorney general, in consultation with other  
16 appropriate state agencies, is authorized to coordinate training regarding  
17 human trafficking for law enforcement agencies throughout Kansas.

18 New Sec. 2. (a) The human trafficking advisory board established by  
19 the attorney general is hereby designated the official human trafficking  
20 advisory board for the state of Kansas.

21 (b) The board shall include representatives from:

22 (1) The office of the governor;

23 (2) the attorney general's office;

24 (3) the department of labor;

25 (4) the department for children and families;

26 (5) the department of health and environment;

27 (6) the juvenile justice authority;

28 (7) the Kansas association of chiefs of police;

29 (8) the Kansas sheriffs' association;

30 (9) the highway patrol;

31 (10) the Kansas bureau of investigation;

32 (11) local law enforcement agencies;

33 (12) the legislature;

34 (13) nongovernmental organizations focused on human trafficking  
35 issues, organizations representing diverse communities disproportionately  
36 affected by human trafficking and organizations focused on child services

1 14 years of age.

2 (e) If the offender is 18 years of age or older and the victim is less  
3 than 14 years of age, the provisions of:

4 (1) Subsection (c) of K.S.A. 2012 Supp. 21-5301, and amendments  
5 thereto, shall not apply to a violation of attempting to commit the crime of  
6 promoting prostitution as described in subsection (b)(2);

7 (2) subsection (e) of K.S.A. 2012 Supp. 21-5302, and amendments  
8 thereto, shall not apply to a violation of conspiracy to commit the crime of  
9 promoting prostitution as described in subsection (b)(2); and

10 (3) subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments  
11 thereto, shall not apply to a violation of criminal solicitation to commit the  
12 crime of promoting prostitution as described in subsection (b)(2).

13 (2) *In addition to any other sentence imposed, a person convicted*  
14 *under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more*  
15 *than \$5,000. In addition to any other sentence imposed, a person*  
16 *convicted under subsection (b)(1)(B) shall be fined not less than \$5,000.*  
17 *All fines collected pursuant to this section shall be remitted to the human*  
18 *trafficking victim assistance fund created by section 3, and amendments*  
19 *thereto.*

20 Sec. 18. K.S.A. 2012 Supp. 21-6421 is hereby amended to read as  
21 follows: 21-6421. (a) ~~Patronizing a prostitute~~ *Buying sexual relations* is  
22 knowingly:

23 (1) Entering or remaining in a ~~house of prostitution~~ *place where*  
24 *sexual relations are being sold or offered for sale* with intent to engage in  
25 *manual or other bodily contact stimulation of the genitals of any person*  
26 *with the intent to arouse or gratify the sexual desires of the offender or*  
27 *another; sexual intercourse, sodomy or any unlawful sexual act with a*  
28 ~~prostitute~~ *person selling sexual relations who is 18 years of age or older;*  
29 or

30 (2) hiring a ~~prostitute~~ *person selling sexual relations who is 18 years*  
31 *of age or older to engage in manual or other bodily contact stimulation of*  
32 *the genitals of any person with the intent to arouse or gratify the sexual*  
33 *desires of the offender or another; sexual intercourse, sodomy or any*  
34 *unlawful sexual act.*

35 (b) ~~Patronizing a prostitute is a class C misdemeanor~~

36 (b) (1) *Buying sexual relations is a:*

37 (A) *Class A person misdemeanor, except as provided in subsection (b)*  
38 *(1)(B);*

39 (B) *severity level 9, person felony when committed by a person who*  
40 *has, prior to the commission of the crime, been convicted of a violation of*  
41 *this section, or any prior version of this section.*

42 (2) *In addition to any other sentence imposed, a person convicted*  
43 *under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other*

1 sentence imposed, a person convicted under subsection (b)(1)(B) shall be  
2 fined not less than \$5,000. All fines collected pursuant to this section shall  
3 be remitted to the human trafficking victim assistance fund created by  
4 section 3, and amendments thereto.

5 (3) In addition to any other sentence imposed, for any conviction  
6 under this section, the court ~~shall~~ order the person convicted to enter into  
7 and complete a suitable educational and treatment program regarding  
8 commercial sexual exploitation.

may

9 (c) (1) Nothing contained in this section shall be construed as  
10 preventing any city from enacting ordinances, or any county from adopting  
11 resolutions, declaring acts prohibited or made unlawful by this act as  
12 unlawful or prohibited in such city or county and prescribing penalties for  
13 violation thereof.

14 (2) The minimum penalty prescribed by any such ordinance or  
15 resolution shall not be less than the minimum penalty prescribed by this  
16 section for the same violation, and the maximum penalty in any such  
17 ordinance or resolution shall not exceed the maximum penalty prescribed  
18 for the same violation.

19 Sec. 19. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as  
20 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d)  
21 ~~and~~, (e) and (f), any person convicted in this state of a traffic infraction,  
22 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or  
23 for crimes committed on or after July 1, 1993, nondrug crimes ranked in  
24 severity levels 6 through 10, or for crimes committed on or after July 1,  
25 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the  
26 drug grid, or for crimes committed on or after July 1, 2012, any felony  
27 ranked in severity level 5 of the drug grid may petition the convicting  
28 court for the expungement of such conviction or related arrest records if  
29 three or more years have elapsed since the person: (A) Satisfied the  
30 sentence imposed; or (B) was discharged from probation, a community  
31 correctional services program, parole, postrelease supervision, conditional  
32 release or a suspended sentence.

33 (2) Except as provided in subsections (b), (c), (d) ~~and~~, (e) and (f), any  
34 person who has fulfilled the terms of a diversion agreement may petition  
35 the district court for the expungement of such diversion agreement and  
36 related arrest records if three or more years have elapsed since the terms of  
37 the diversion agreement were fulfilled.

38 (b) Any person convicted of prostitution as defined in K.S.A. 21-3512,  
39 prior to its repeal, convicted of a violation of K.S.A. 2012 Supp. 21-6419,  
40 and amendments thereto, or who entered into a diversion agreement in  
41 lieu of further criminal proceedings for such violation, may petition the  
42 convicting court for the expungement of such conviction or diversion  
43 agreement and related arrest records if: